**THE HON'BLE Ms. JUSTICE G. ROHINI**

**WRIT PETITION No.15551 OF 2007**

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**ORAL ORDER:**

The petitioners herein claim to be in possession and enjoyment of land to an extent of Ac.2.50 cents each, situated in Sy.No.239 of Ramanakkapeta village, U. Kothapalli Mandal, East Godavari District.

It is not in dispute that the said land belongs to the 2nd respondent-Temple. The petitioners claim that their late father Rama Swamy was the cultivating tenant of a total extent of Ac.10.00 and, after his death, they succeeded to the leasehold rights and that the 2nd respondent has also recognized their rights in respect of Ac.2.50 cents, each. It is stated that since then they have been continuing in possession and enjoyment and paying the Maktha regularly. While so, the 2nd respondent has issued the impugned auction notice dated 13.7.2007 proposing to conduct public auction on 23.7.2007 for grant of the leasehold rights in respect of the land in possession and enjoyment of the petitioners. Questioning the said action of the respondents, this writ petition has been filed contending *inter alia* that since the petitioners are continuing in possession and enjoyment of the land in question as the cultivating tenants, the 2nd respondent is not justified in proposing to conduct the public auction for grant of lease in favour of third parties. It is also contended that since the petitioners, who are in possession of Ac.2.50 cents, each, are landless poor persons, without giving them an option to purchase the land in question in terms of Section 82(2) of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987, the 2nd respondent cannot put the leasehold rights to public auction.

It is also contended that since, admittedly, the petitioners are in possession of the land as on today, even assuming that they are encroachers, they cannot be dispossessed without following due

process of law.

It is to be noted that admittedly, the petitioners are not holding any valid lease as on today. Even on the date of the commencement of the Act, they were not holding any lease, but it was only their late father, who was a lessee to an extent of Ac.10.00 cents. Nothing has been placed before this court to show that the petitioners were granted any lese at any point of time. Merely because after the death of their father, the petitioners continued in possession and paid Maktha, it cannot be said that they were recognized as lessees. In the circumstances, the status of the petitioners is nothing but encroachers and, therefore, it is always open to the respondents to take steps for grant of fresh leasehold rights by conducting public auction as provided under the Statutory Rules. However, in case there is standing crop on the land, it is open to the petitioners to make an appropriate application before the 2nd respondent, in which event, the same will be considered by the 2nd respondent in accordance with law.

Accordingly, the writ petition is dismissed. However, it is made clear that this shall not preclude the petitioners from participating in the auction proposed under the impugned notice, if they so choose. No costs.

**(G. ROHINI, J.)**

20th July, 2007.
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**THE HON'BLE Ms. JUSTICE G. ROHINI**

**WRIT PETITION No.15551 OF 2007**

20th July, 2007.

Between:

Adapa Ammi Raju and others. .. Petitioners.

And

The Regional Joint Commissioner,
Endowments Department,
Kakinada, East Godavari District Joint Collector
and others. .. Respondents.

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